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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/593,173	09/15/2006	Tomotsugu Matsui	B-6133PCT 623732-0	8722
36716 7590 03/12/2009				
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EXAMINER				
REICHL, KARIN M				
ART UNIT		PAPER NUMBER		
3761				
MAIL DATE		DELIVERY MODE		
03/12/2009		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/593,173

Applicant(s)

MATSUI, TOMOTSUGU

Examiner

Karin M. Reichle

Art Unit

3761

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 December 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 15 September 2006 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-8508)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____
- Paper No(s)/Mail Date _____

DETAILED ACTION

Specification

Drawings

1. The drawings were received on 12-18-08. These drawings are not approved. The proposed Figures do not overcome all the drawing objections. See the following paragraph and the Response to arguments section *infra*.

2. The drawings are still objected to because cross-sections should be denoted by Roman or Arabic numerals, not letters. Note also the use of letters to describe such in the textual description. In Figure 1, the lines from 13, 20 and 21 should be dashed to denote underlying structure. Also a line from each denotation to the structure it denotes should be set forth, i.e. no B1 in parenthesis without a line. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner,

the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Description

3. 35 U.S.C. 112, first paragraph, requires the specification to be written in "full, clear, concise, and exact terms." The specification is replete with terms which are not clear, concise and exact. The specification should be revised carefully in order to comply with 35 U.S.C. 112, first paragraph. Examples of some unclear, inexact or verbose terms used in the specification are: page 1, second paragraph.

4. The disclosure is objected to because of the following informalities: 1) The section subtitles should be revised, see 37 CFR 1.77(b). 2) On page 9, second to last line, reference to the inventor should be avoided. Appropriate correction is required.

Claim Objections

5. Claims 1-5 are objected to because of the following informalities: in claim 1, second to last line, before "information", --an-- should be inserted. Also the last line of claim 3 has an informality, i.e. "a thickens"? Appropriate correction is required.

Claim Rejections - 35 USC § 112

6. Claims 1-5 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant

art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The claims now require an absorbent article comprising at least a liquid permeable top sheet, an absorbent, a water vapor permeable waterproof sheet, and a liquid impermeable back sheet, a hydrophilic resin coating layer disposed between the absorbent and the water vapor permeable waterproof sheet, and an information mark layer disposed between the hydrophilic resin coating layer and the absorbent, claim 1, the length and/or width of the hydrophilic resin coating layer being greater than the length and/or width of the information mark layer and the information mark layer and the hydrophilic resin coating layer have a thickness of about 1 to about 20 micrometers, as best understood, claim 3, and an ink layer disposed between the water vapor permeable waterproof sheet and the hydrophilic resin coating layer which is resistant to discoloration when exposed to water, claim 5. Applicant relies upon various portions of the original application, see page 6, third full paragraph of the 12-18-08 remarks. While the original specification teaches an absorbent article structured by integrally forming comprising a liquid permeable top sheet, an absorbent, a water vapor permeable waterproof sheet, and a liquid impermeable back sheet, in this order, characterized in that a water content indicator is provided on an inner surface of the water vapor permeable waterproof sheet, the water content indicator being constituted by a hydrophilic resin coating layer and an information mark provided on an inner surface of the hydrophilic resin coating, the hydrophilic resin coating layer constituting the water content indicator and the information mark are formed in approximately same shape or the resin coating is wider and longer than the mark and each of the information mark layer and the hydrophilic resin coating layer has a thickness of about 1 to about 20 micrometers, i.e. about 2 to 40 in combination, and the ink layer not being discolored when exposed to water, this is not what

is claimed. If Applicant maintains the claim language, the portion of the original specification which provides support for the entire scope of each claim in a single embodiment should be set forth.

Claim Language Interpretation

7. Since no claim terminology has been explicitly defined, such terminology will be given its usual, e.g., dictionary, definition. It is noted with respect to claim 1 that the surfaces of the vapor permeable sheet and the coating layer are all “inner” with respect to other sheets. Also the claim does not require direct provision on such surfaces. With regard to the terminology “information mark layer”, since this terminology has not explicitly defined such terminology is interpreted to require a layer forming a mark which functions to impart information of some type. With respect to claim 3, “about” allows some deviation from the dimension it modifies. Also as discussed supra, as best understood, “a thickens” will be interpreted as --a thickness--. With respect to claims 1-5 and the discussion in paragraph 6, see MPEP 2163.06, I. With respect to claim 4, the ink print is not required to be coextensive with the information mark. See also discussion infra.

Claim Rejections - 35 USC § 102/103

8. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

9. Claims 1 and 4 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Cammarota et al '119 and thereby, by incorporation, Timmons '211.

Claim 1: See Claim Language Interpretation section supra and '119 at the Figures and, e.g., col. 1, lines 41-54, col. 2, lines 11 et seq, and thereby, by incorporation, '211 at the col. 2, line 68-col. 3, line 4, col. 3, lines 33-34 and 59-61, col. 4, lines 6-10 and 40-47, col. 5, lines 21-66, and col. 6, lines 19-26, e.g. at least a hydrophilic resin coating layer (Note paragraphs bridging pages 10-12 of the instant application), '119 further at col. 3, lines 1-4 and 46-51, col. 7, lines 19-29, col. 5, lines 45-50, the paragraph bridging cols. 6-7, col. 8, lines 28-58, col. 9, lines 6-61, especially line 60, col. 11, line 40-col. 12, line 13, col. 12, lines 21-36, col. 15, lines 13-62, and col. 21, lines 26-48, i.e. '119 teaches an absorbent article 20 comprising at least a liquid permeable top/most upper sheet 42, an absorbent 44, a water vapor permeable waterproof sheet, i.e. a more upper sheet of cover 40, e.g. 116, see, e.g., again col. 15, lines 18-23 and col. 15, lines 37-38, and a liquid impermeable back sheet, i.e. a more outer sheet of cover 40, e.g. 114, see, e.g., again col. 15, lines 18-23 and col. 15, lines 37-38, a hydrophilic resin coating layer, see, e.g., portions of '211, esp. col. 5, lines 27-66, at least a portion of the binder, e.g. the binder is a water-soluble, i.e. "hydrophilic" as defined by the dictionary is "Having an affinity for, absorbing, wetting smoothly with tending to combine with, or capable of dissolving in water", polyvinyl alcohol or carboxymethyl cellulose, i.e. CMC, (Note again the instant specification at the paragraph bridging pages 10-11) which is coated/layered on the cover between the absorbent and the water vapor permeable waterproof sheet, e.g. is provided on an inner surface of the water vapor permeable waterproof sheet, see portions of '119 cited supra, e.g. col. 21, lines 27-48, and

an information mark, see col. 1, lines 41-45 of '119, i.e. informational graphics, e.g. the "active graphic" tint/dye/ink, see, e.g., Figure 5, element 85, or the "permanent graphic"/"segmentation graphic"/"background color graphic", see, e.g., Figure 5, element 92 and the cited portions of '119, and the mark is the dye (Note again the paragraph bridging pages 11-12 of the instant application). Claim 1 further requires the mark be a layer disposed between the hydrophilic resin coating layer and the absorbent. See Claim Language Interpretation section supra, i.e. the claim does not require direct provision. See again the cited portions of '119 and '211, i.e. mix/solution/dispersion of dye/binder, i.e. mix/solution/dispersion of dye in resin. Therefore, there is sufficient factual evidence for one to conclude that there is or necessarily and inevitably is at least a portion/layer of the mark/dye disposed between at least a portion of the hydrophilic resin/binder which resin is a coating layer and the absorbent. It is noted that the claim does not require, e.g., all, the mark/dye be provided directly on the externalmost surface thereof or the specific size/dimension of the layers. Additionally, see, e.g., again the cited portions of '119, esp. col. 9, lines 21-25 and 50-61, the paragraph bridging cols. 17-18, col. 21, lines 29-48, esp. lines 33-35, and 46-47, ("permanent graphic"/"segmentation graphic"/"background color graphic" may be on core or between core and vapor permeable layer while "active graphic", i.e. dye/mark/resin/binder, layer can be between the core and vapor permeable layer or on interior surface of vapor permeable layer) and, e.g., at least a portion of 92, i.e. there is sufficient factual evidence for one to conclude that or necessarily and inevitably conclude that the information mark can be on the surface of the absorbent assembly behind the binder/resin on the surface 112, see Figure 9B.

Claim 4: Claim 4 further requires an ink layer disposed between the hydrophilic resin coating layer and the water vapor permeable waterproof sheet which is resistant to discoloration when exposed to water. See Claim Language Interpretation section *supra*, i.e. the claim does not require direct provision. See again discussion of claim 1. Therefore, there is sufficient factual evidence for one to conclude that there is or necessarily and inevitably is at least a portion/layer of permanent ink/dye, e.g., at least a portion of 92, e.g. a permanent segmentation graphic, is disposed between at least a portion of the hydrophilic resin/binder which resin/binder is a coating layer and water vapor permeable water proof sheet while at least a portion/layer of the mark/dye is disposed between at least a portion of the hydrophilic resin which resin/binder is a coating layer and the absorbent. Additionally, note, e.g., '119 also contemplates other permanent graphics, e.g. 81, 82, and active graphics, e.g. 89, 88, which can be positioned in various locations as discussed *supra*.

Claim Rejections - 35 USC § 103

10. Claim 3 is rejected under 35 U.S.C. 103(a) as obvious over Cammarota et al '119 and thereby, by incorporation, Timmons '211.

Claim 3: This claim requires the length and/or width of the hydrophilic resin coating layer be greater than the length and/or width of the information mark layer and the information mark layer and the hydrophilic resin coating layer have a thickness of about 1 to about 20 micrometers as best understood, see CLI. While '119 teaches a resin coating layer having a length and/or width greater than the length and/or width of the information mark layer, i.e. see, the discussion of claims 1 and 4 *supra* as well as, e.g., col. 11, lines 30-32, i.e. "can be" infers

also can not be, element 81 or 82 in Figure 3 as compared to 88 and/or 89, it does not teach the claimed thickness. See however the discussion supra in paragraphs 6-7 supra as well as the paragraphs bridging pages 10-12 of the instant disclosure, i.e. no criticality of the claimed range for the combination, i.e. of about 1-20. Note again that '119 and '211 recognize the same problem, i.e. moisture indicating, as disclosed and also desires the same properties/combination of properties, e.g. visibility of indication in a limited use/disposable elastic, i.e. not hard, garment, as the instant application. Note also MPEP 2141.05. Therefore, it is the Examiner's second position that even if the prior art does not include the exact thickness range, the general conditions of the claim are disclosed thereby and it is not inventive, i.e. it would be obvious to one of ordinary skill in the art, to discover the optimum or workable ranges, i.e. Applicant's ranges, by routine experimentation, In re Aller, 105 USPQ 233 (CCPA 1955).

11. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Cammarota et al '119 and Timmons '211 in view of Ikeda et al '091.

This claim requires the water vapor permeable waterproof sheet be a sheet material having a water vapor permeability of 7000 g/m²/24h as measured according to JIS Z-0208. While '119 at col. 12, lines 32-34 and col. 15, lines 13-62 teaches a vapor permeable waterproof porous polypropylene based resin film/layer it does not teach the specific vapor permeability measured according to the specific test. However see '091 at paragraphs 1, 98, 101 and 111 for example. To make the vapor permeable waterproof porous polypropylene based resin film/layer sheet of '119 an vapor permeable waterproof porous polypropylene based resin film/layer as taught by '091 instead, if not already, would either be obvious, see *In re Siebentritt*, 54 CCPA 1083, i.e. two equivalents are interchangeable for the desired function, express suggestion of

desirability not needed to render such substitution obvious, or be obvious to one of ordinary skill in the art in view of the recognition that such a sheet provides vapor permeability and the desire of such same properties in the cover by '119. In so doing the prior art would necessarily and inevitably teach the claimed article, i.e. the range "2000...or higher" includes 7000, note MPEP 2131.03 and 2144.05.

12. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Cammarota et al '119 and Timmons '211 in view of Kolfta et al '904 and Yubuki et al '595.

This claim requires the hydrophilic resin coating layer comprises an ultraviolet absorbents, ultraviolet scattering agent, light stabilizer or antioxidant. While '119 and '211 teach a wetness indicator including a coloring agent and resin/binder such does not teach such having such additives. See, however, e.g., paragraphs 2, 17, 86, 94 and 53-78 of '904 and 80, 26, 45-47 of '595, i.e. resin binder/coloring agent indicators include other additives including ultraviolet agents, stabilizers and antioxidants to enhance storage and/or performance during use, e.g. stabilizing/prevention of degradation of coloring agent. Therefore, to employ an additive, such as, e.g., an ultraviolet absorbent, ultraviolet scattering agent, light stabilizer or antioxidant as taught by '904 and '595 on the '119/'211 device would be obvious to one of ordinary skill in the art in view of the recognition that such would prevent degradation of the indicator, i.e. and thereby during use, and the desire of '119 to provide accurate indication.

Response to Arguments

13. Applicant's remarks have been carefully considered but are either deemed moot in that the issue discussed has not been reraised or deemed not persuasive for the reasons set forth

supra. For example, with regard to the drawings, see 37 CFR 1.84(h)(3). For another example, Applicant's remarks are narrower than the disclosure and/or the claim language and/or the teachings of the prior art, see discussion in paragraphs 6, 9 and 10-11 supra.

Conclusion

14. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any new grounds of rejection were necessitated by the amendments to claims 1-4 and the addition of claim 5.

15. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Karin M. Reichle whose telephone number is (571) 272-4936. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tanya Zalukaeva can be reached on (571) 272-1115. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Karin M. Reichle/
Primary Examiner, Art Unit 3761

March 9, 2009